

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRANDON OLIVER,

Defendant.

CAUSE NO. 3:19-CR-78 DRL

OPINION & ORDER

Brandon Oliver moved a second time for either compassionate release or transfer to a new facility. The first time, he was in temporary residence at the Cimarron Correctional Facility while being transported to FCI Terre Haute. He now resides at FCI Terre Haute.

He doesn't raise new medical issues in this motion, and the court finds no error in its prior ruling denying compassionate release (*see* ECF 65). The only reason for compassionate release on COVID-19 grounds now would be his placement in a new facility. FCI Terre Haute has no inmates and only one staff member testing positive for COVID-19 today, so his risks there are minimal. The Bureau of Prisons has vaccinated 267 staff members and 841 inmates at this facility, and more inmates get vaccinated daily. The BOP continues heroically to combat the COVID-19 pandemic within its facilities with vaccinations and contagion-prevention protocols. Mr. Oliver doesn't say that the BOP isn't adequately caring for him. With just over a month passing since the court ruled on his first request, the court reaffirms its previous ruling denying compassionate release because of his health and the COVID-19 pandemic.

The BOP has the sole authority to determine the location where an inmate serves his custodial sentence, *see* 18 U.S.C. § 3621(b); *Tapia v. United States*, 564 U.S. 319, 331 (2011); *McKune v. Lile*, 536 U.S. 24, 39 (2002) (plurality), so the court cannot grant Mr. Oliver's request for a transfer.

That said, Mr. Oliver raises an urgent and grave concern—he says his life is in danger at the facility. He says another inmate held a knife to him while threatening to stab him, and that six other inmates kicked him until he escaped. From what he says, this appears to have occurred because of his transfer to FCI Terre Haute. He should report such concerns to prison officials; but, in an abundance of caution, the court will order his letter and a copy of this order be sent to the warden.

The court thus DENIES Mr. Oliver’s request for compassionate release or transfer (ECF 66), and ORDERS that Mr. Oliver’s letter (ECF 66) and this order both be sent by facsimile and mail forthwith to the warden of FCI Terre Haute for the warden’s consideration.

SO ORDERED.

March 30, 2021

s/ *Damon R. Leiby*
Judge, United States District Court